

IN THE COURT OF COMMON PLEAS  
COLUMBIANA COUNTY

ALLSTATE INSURANCE COMPANY, as subrogee  
of Marsha Crawl,  
2775 Sanders Road  
Northbrook, IL 60062

**FILED** Case No: 2025 Cu 52  
COLUMBIANA COUNTY  
COURT OF COMMON PLEAS Judge: SCOTT WASHAM

FEB 03 2025

and

ALLSTATE INDEMNITY COMPANY, as subrogee  
of Kelly See, Anthony Monteleone and Tristan  
Reynolds,  
2775 Sanders Road  
Northbrook, IL 60062

ANTHONY J. DATTILIO  
CLERK

COMPLAINT AT LAW

and

JURY DEMAND ENDORSED  
HEREON

ALLSTATE VEHICLE AND PROPERTY  
INSURANCE COMPANY, as subrogee of David  
Sharek, Chester Smith, Nicole Arter and Sean  
Hutton,  
2775 Sanders Road  
Northbrook, IL 60062

and

ALLSTATE PROPERTY AND CASUALTY  
INSURANCE COMPANY, as subrogee of Allison  
Shipe,  
2775 Sanders Road  
Northbrook, IL 60062

*Plaintiffs,*

v.

NORFOLK SOUTHERN CORPORATION,  
1200 Peachtree Street NE  
Atlanta, Georgia 30308

and

NORFOLK SOUTHERN RAILWAY COMPANY,  
c/o Statutory Agent, Corporation Service Company  
1160 Dublin Road, Suite 400  
Columbus, Ohio 43215

*Defendants.*

### **COMPLAINT AT LAW**

NOW COMES Plaintiffs, ALLSTATE INSURANCE COMPANY, as subrogee of Marsha Crawl, ALLSTATE INDEMNITY COMPANY, as subrogee of Kelly See, Anthony Monteleone and Tristan Reynolds, ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY, as subrogee of David Sharek, Chester Smith, Nicole Arter and Sean Hutton, and ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, as subrogee of Allison Shipe (hereinafter collectively referred to as "Allstate") and for their Complaint against Defendants NORFOLK SOUTHERN CORPORATION and NORFOLK SOUTHERN RAILWAY COMPANY (hereinafter collectively referred to as "Norfolk"), states as follows:

### **PARTIES**

1. At all relevant times, the ALLSTATE entities are Illinois insurance companies, with their principal place of business in Northbrook, Illinois, and were duly licensed to do business in Ohio as an insurance provider.

2. At all relevant times, the Allstate entities insured the following individuals who owned residential property in Columbiana County.

Kelly See	317 E. Clark St., East Palestine, OH 44413
Anthony Monteleone	521 E. Martin St., East Palestine, OH 44413
Tristan Reynolds	606 E. Martin St., East Palestine, OH 44413
David Sharek	176 E. Martin St., East Palestine, OH 44413
Chester Smith	226 Wood St., East Palestine, OH 44413

Nicole Arter	407 E. North Ave., East Palestine, OH 44413
Marsha Crowl	94 E. Grant St., East Palestine, OH 44413
Allison Shipe	569 E. North St., East Palestine, OH 44413
Sean Hutton	301 E. Taggart St., East Palestine, OH 44413

3. The ALLSTATE entities are *bona fide subrogees* of the above identified insureds pursuant to policies of insurance issued by the ALLSTATE entities, which, *inter alia*, provided coverage for the above identified insureds real, personal, and other property, including coverage for fire damage, and through equity.

4. At all relevant times, Defendant NORFOLK SOUTHERN CORPORATION (hereinafter referred to as “NSC”) is a publicly traded corporation that is organized and existing under the laws of the Commonwealth of Virginia with its principal place of business located at 1200 Peachtree Street, NE, Atlanta, Georgia 30308.

5. At all relevant times, Defendant NORFOLK SOUTHERN RAILWAY COMPANY (hereinafter referred to as “NSRC”) is a Virginia corporation with its principal place of business in Atlanta, Georgia. Defendants NSC and NSRC will be identified as “Norfolk,” “Norfolk Southern,” or “Defendants.”

6. NSC is a Class I railroad corporation organized and existing under the laws of the Commonwealth of Virginia with its principal place of business located at 1200 Peachtree Street, NE, Atlanta, Georgia 30308. Defendant NSRC is a common carrier that accepts hazardous substances for transport.

7. NORFOLK operated Norfolk Southern Train 32N and its railcars in their Keystone Division at all relevant times. Defendants NSC and NSRC owned the locomotive and certain railcars on Norfolk Southern Train 32N at all relevant times.

### VENUE

8. Pursuant to, *inter alia*, Ohio Civil Rule 3(c), venue is proper in Columbiana County, as this is the county in which the incident occurred out of which the causes of action arose.

### COMMON ALLEGATIONS

9. Upon information and belief, on February 3, 2023, NORFOLK Train 32N, consisting of 149 cars, was carrying abnormally dangerous and ultrahazardous chemicals including, but not limited to, vinyl chloride, butyl acrylate, benzene residue, ethylene glycol monobutyl ether, ethylhexyl acrylate and isobutylene.

10. Upon information and belief, NOROLK train 32N was traveling a downhill route eastbound from Illinois to Pennsylvania on main track 1 of the Norfolk Fort Wayne line of the Keystone Division.

11. Upon information and belief, in the area of East Palestine, Ohio, approximately thirty-eight of the train cars derailed with an additional twenty railcars damaged, several of which were carrying dangerous and hazardous industrial materials (hereinafter referred to as “the derailment”).

12. Upon information and belief, the train was on fire at approximately 8:13 p.m. on February 3, 2023, as it passed through Salem, Ohio,

13. Upon information and belief, a wheel bearing overheated approximately 45 minutes before the derailment.

14. Upon information and belief, a hotbox detector which assesses the temperature conditions of railcar wheel bearings registered an alarm message, alerting the crew of the necessity to slow the train, ultimately coming to a stop to inspect the hot axle.

15. Upon information and belief, the overheated wheel bearing continued to overheat,

resulting in the train derailment and the application of the emergency brakes as the train passed through East Palestine.

16. Upon information and belief, the derailed cars carried hazardous materials and chemicals, which ignited and caused the release of chemicals involving as well as detonation of certain, resulting in an explosion and release of fire, smoke, chemicals, contaminants, and debris onto the property of ALLSTATE'S insureds.

17. Pursuant to their policy of insurance with the ALLSTATE entities, ALLSTATE'S insureds made claims seeking reimbursement for damages resulting from the fire loss. Pursuant to the provisions of the policy of insurance issued to its insureds by ALLSTATE, ALLSTATE paid to or on behalf of the insureds sums totaling or in excess of \$295,000 to repair or replace damaged or destroyed property and to otherwise compensate the insureds for losses sustained as the result of the fire.

18. In consideration of payments to its insureds, both in law and in equity, ALLSTATE became a bona fide subrogee of the insureds to the extent of its payments, and it is subrogated to all rights, claims, and interests that its insureds may have against any person or entity that may be liable for causing the reimbursed damages that resulted from the fire loss.

19. ALLSTATE has provided past notice to the Defendants of its subrogated claims, rights, and that no party is authorized to prejudice nor release Plaintiffs' subrogated rights and claims.

### **COUNT I NEGLIGENCE**

20. ALLSTATE realleges, reavers and incorporates by reference the allegations asserted above as if fully set forth herein.

21. ALLSTATE alleges the derailment, fire, release of toxic chemicals, and explosion was caused by the negligence, carelessness, and/or recklessness of the Defendants. Defendants owed ALLSTATE'S insureds a duty to use reasonable care in the transportation of hazardous materials and chemicals through the area in and around the insureds' properties. Defendants had duties to properly inspect and maintain their trains and railcars; to not place in service or continue in service a car with an overheated roller bearing; to maintain vigilant lookout during the operation of its trains and railcars; to remedy defects in equipment and remove all cars that are unsafe.

22. Defendants negligently and carelessly breached their duties to Plaintiffs. Defendant's negligent activities, include, but are not limited to:

- a. Failing to properly maintain, service and inspect their trains and railcars.
- b. Placing in service or continuing in service a car with an overheated roller bearing.
- c. Failing to maintain vigilant lookout during the operation of its trains and railcars and to ensure its agents, servants, and employees were properly and adequately instructed and trained while transporting hazardous substances.
- d. Failing to adequately staff trains with personnel that plan, prepare, coordinate, and oversee transportation of hazardous materials.
- e. Failing to properly instruct and adequately train safety and emergency procedures in the event of a derailment.
- f. Failing to properly develop and implement a risk reduction program; and risk-based hazard management programs.
- g. Failing to operate, maintain, inspect, and/or repair the railway and railcars in such a way to ensure their safe and proper operation, particularly when transporting hazardous materials and chemicals.
- h. And was otherwise negligent its transportation of chemicals.

23. As a direct and proximate result of the negligent errors and omissions as set forth herein, Plaintiffs suffered damages in an amount in excess of \$295,000.

WHEREFORE, the ALLSTATE entities, as subrogee of its insureds, pray for judgment against NORFOLK in an amount in excess of \$295,000 or such other amount the Court deems appropriate plus an award of costs and attorney's fees incurred in presenting this claim.

**COUNT II  
NEGLIGENCE PER SE**

24. ALLSTATE realleges, reavers and incorporates by reference the allegations asserted above as if fully set forth herein.

25. ALLSTATE alleges NORFOLK'S operation of its trains and railcars breached industry standards, safety laws and regulations, contained in 49 C.F.R.215.115 which prohibits placing a train car with an overheated bearing in service, in addition to 49 C.F.R. 179.15(a) which provides each tank must have a pressure relief device which prevents a pressure build-up to prevent fire and explosion for safe transport of chemicals.

26. As a direct and proximate result of NOROLK'S violation of federal law, Plaintiffs suffered damages in an amount in excess of \$295,000.

WHEREFORE, the ALLSTATE entities, as subrogee of its insureds, prays for judgment against NORFOLK in an amount in excess of \$295,000 or such other amount the Court deems appropriate plus an award of costs and attorney's fees incurred in presenting this claim.

**COUNT III  
STATUTORY NUISANCE**

27. ALLSTATE realleges and incorporates by reference the allegations asserted above as if fully set forth herein.

28. At all relevant times, Ohio R.C. § 3704.05 states “no person shall cause, permit, or allow emission of an air contaminant in violation of any rule adopted by the director of environmental protection.”

29. Furthermore, at all relevant times, Ohio Admin. Code 3745-15-07(A) states “[t]he emission or escape into the open air for any source or sources whatsoever of... fumes, gases, vapors, or any other substance or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.”

30. As a result of NORFOLK’S improper transportation and violation of state law, handling, and disposing of volatiles, semi-volatiles, dioxins, and phosgene, Plaintiffs’ insureds’ property was damaged as it was exposed to hazardous air pollutants in violation of Ohio law.

WHEREFORE, the ALLSTATE entities, as subrogee of its insureds, pray for judgment against NORFOLK in an amount in excess of \$295,000 or such other amount the Court deems appropriate plus an award of costs and attorney’s fees incurred in presenting this claim.

#### **COUNT IV TRESPASS**

31. ALLSTATE realleges, reavers and incorporates by reference the allegations asserted above as if fully set forth herein.

32. At all times relevant hereto, NORFOLK knew or should have known the chemicals it was transporting across state lines were hazardous and harmful to real property and humans, and that it knew or should have known their emission, discharge, disposal, and/or release would cause injury to Plaintiff’s insureds’ property.



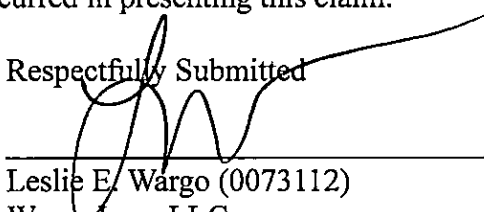
33. NORFOLK through its careless and negligent transportation of chemicals caused hazardous materials, as well as explosive materials, to enter and contaminate Plaintiff's insureds' property.

34. Upon information and belief, NORFOLK knew or should have known their negligent and careless conduct regarding hazardous materials, failed to act in the manner of an ordinary transportation business.

35. As the direct and proximate result of NORFOLK, Plaintiffs suffered damages in excess of \$295,000.

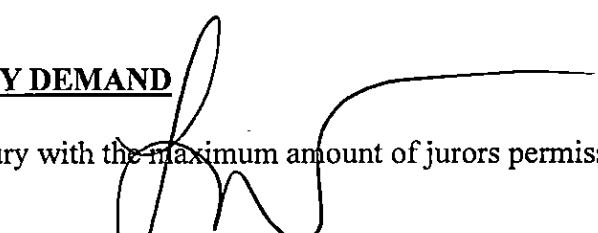
WHEREFORE, Plaintiffs, as subrogee of its insureds, pray for judgment against NORFOLK in an amount in excess of \$295,000 or such other amount the Court deems appropriate plus an award of costs and attorney's fees incurred in presenting this claim.

Respectfully Submitted

  
\_\_\_\_\_  
Leslie E. Wargo (0073112)  
Wargo Law, LLC  
1501 North Marginal Road, Suite 182  
Cleveland, Ohio 44114-3738  
Telephone: (216) 403-3350  
Facsimile: (216) 744-1816  
Email: [Leslie@wargo-law.com](mailto:Leslie@wargo-law.com)  
*Attorney for Plaintiff*

**JURY DEMAND**

Plaintiffs hereby demand a trial by jury with the maximum amount of jurors permissible.

  
\_\_\_\_\_  
Leslie E. Wargo (0073112)



Common Pleas Court of Columbiana County, Ohio

## DESIGNATION FORM TO BE USED TO INDICATE THE CLASSIFICATION OF THE CAUSE

FILED  
Allstate Insurance Company a/s/o Marsha Crawl et al. COLUMBIANA COUNTY  
Plaintiff COURT OF COMMON PLEAS

Case Number: 2025 CV 52  
Date: 02/03/2025

Vs.

Norfolk Southern Corporation, et al.

FEB 03 2025

SCOTT WASHAM

Defendant

Has this case been previously filed and dismissed? Yes ☐ No ☒

Case #: \_\_\_\_\_ Judge: \_\_\_\_\_

Is this case related to any new cases now pending or previously filed? Yes ☐ No ☒

Case #: \_\_\_\_\_ Judge: \_\_\_\_\_

## CIVIL CLASSIFICATIONS: Place an (X) in ONE Classification Only.

## Professional Torts:

- ☐ Medical Malpractice  
☐ Dental Malpractice  
☐ Optometric Malpractice  
☐ Chiropractic Malpractice  
☐ Legal Malpractice  
☐ Other Malpractice

## Product Liability:

- ☐ Product Liability

## Other Torts:

- ☐ Motor Vehicle Accident  
☐ Consumer Action  
☐ Misc. Tort

## Workers Compensation:

- ☐ Workers Compensation  
☐ Workers Comp. Asbestos

## Foreclosures:

- ☐ Foreclosure

## Commercial Docket:

- ☐ Commercial Docket  
☐ Commercial Docket with Foreclosure

## Administrative Appeals:

- ☐ Employment Services  
☐ Other

## Other Civil:

- ☐ Replevin/Attachment  
☐ Business Contract  
☐ Real Estate Contract  
☐ Consumer Debt  
☐ Cognovit  
☐ Other Contracts  
☐ Foreign Judgment  
☐ Stalking Civil Protection Order  
☒ Misc. Other  
☐ Petition to Contest Adam Walsh Act  
☐ Certificate of Qualification for Employment

## Amount of Controversy:

- ☐ None Stated  
☐ Less than \$25,000  
☒ Prayer Amount excess of \$295,000

## Parties have previously attempted one of the following prior to filing:

- ☐ Arbitration  
☐ Early Neutral Evaluation  
☐ Mediation  
☒ None

I certify that to the best of my knowledge the within case is not related to any now pending or previously filed, except as noted above.

Wargo Law, LLC-

Firm Name (Print or type) Attorney of Record (Print or type)

1501 North Marginal Road, Ste. 182

Street Address

Cleveland, Ohio

City, State, zip

(216)403-3350

Phone

Leslie E. Wargo, Esq.

0073112

Supreme Court #

leslie@wargo-law.com

Address Email Address

/s/ Leslie E. Wargo

Signature

Receipt # 285576



Anthony J. Dattilio  
Clerk of Court  
Columbiana, Ohio

Received From:

WARGO ESQ., LESLIE E  
1501 NORTH MARGINAL ROAD, SUITE 182  
CLEVELAND, OH 44114

On Behalf Of:

On: 2/3/25 1:21 pm  
Transaction # 318894  
Cashier ESCHMIDT

CaseNumber 2025 CV 00052

Judge SCOTT A WASHAM JUDGE

ALLSTATE INSURANCE COMPANY vs. NORFOLK SOUTHERN CORPORATION

Fee Description	Fee	Prior Paid	Waived	Due	Paid	Balance
(DEPOS-CV) DEPOSIT-CIVIL	153.00	0.00	0.00	153.00	153.00	0.00
(C) COMPLAINT	97.00	0.00	0.00	97.00	97.00	0.00
Total:	250.00	0.00	0.00	250.00	250.00	0.00

PAYMENTS

Payment Type	Reference	Amount	Refund	Overage	Change	Net Amount
CHECK	1463	250.00	0.00	0.00	0.00	250.00
Payments Total:		250.00	0.00	0.00	0.00	250.00

CASE GRAND TOTAL

Waived	Total Fee	Paid	Balance
\$0.00	\$250.00	\$250.00	\$0.00

IN THE COURT OF COMMON PLEAS  
COLUMBIANA COUNTY, OHIO

FILED  
COLUMBIANA COUNTY  
COURT OF COMMON PLEAS

FEB 03 2025

ANTHONY J. DATTILIO  
CLERK

ALLSTATE INSURANCE COMPANY, as  
subrogee of Marsha Crawl,  
et al.

*Plaintiffs,*

v.

NORFOLK SOUTHERN CORPORATION,  
et al,

*Defendants.*

2025 CW 52

SCOTT WASHAM

INSTRUCTIONS FOR SERVICE UPON  
DEFENDANTS

**To the Clerk of Court:**

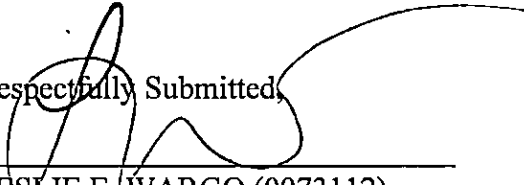
Plaintiffs hereby request that you make service of the Summons and Complaint upon  
Defendants, by certified mail, at the following addresses:

**Norfolk Southern Corporation  
1200 Peachtree Street NE  
Atlanta, Georgia 30308**

**and**

**Norfolk Southern Railway Company  
c/o Statutory Agent, Corporation Service Company  
1160 Dublin Road, Suite 400  
Columbus, Ohio 43215**

Respectfully Submitted,

  
LESLIE E. WARGO (0073112)  
WARGO LAW, LLC  
1501 North Marginal Road, Suite 182  
Cleveland, OH 44114  
(216) 403-3350 (telephone)  
(216) 744-1816 (facsimile)  
Leslie@Wargo-Law.com  
*Attorney for Plaintiffs*

**Summons**

Rule 4 1970, Ohio Rules of Civil Procedure

Case No.: 2025 CV 00052

ALLSTATE INSURANCE COMPANY  
AS SUBROGEE OF MARSHA CRAWL  
2775 SANDERS ROAD  
NORTHBROOK, IL 60062

SCOTT A WASHAM  
JUDGE

**Summons on Complaint**

Plaintiff(s)

VS.

NORFOLK SOUTHERN CORPORATION  
1200 PEACHTREE STREET NE  
ATLANTA, GA 30308

Defendant(s)

**FILED**

Columbiana County Common Pleas Court

**February 03, 2025**

**ANTHONY J. DATTILIO**  
**CLERK OF COURTS**

To the below named Defendant(s):  
NORFOLK SOUTHERN CORPORATION  
1200 PEACHTREE STREET NE  
ATLANTA, GA 30308

You are hereby summoned that a complaint (a copy of which is hereto attached and made a part hereof) has been filed against you in this Court by the Plaintiff(s) named herein.

You are required to serve upon the Plaintiff's Attorney, or upon the Plaintiff if no attorney of record, a copy of your answer to the complaint within 28 days after service of this summons upon you, exclusive of the day of service. Said answer must be filed with this Court within three (3) days after service on Plaintiff's Attorney.

The name and address of the Plaintiff's Attorney is as follows:

LESLIE E WARGO ESQ.  
1501 NORTH MARGINAL ROAD, SUITE 182  
CLEVELAND, OH 44114

(216) 403-3350 (W)

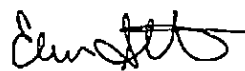
If you fail to appear and defend, judgment by default will be taken against you for the relief demanded in the complaint.

Witness, My signature and seal of said Court on this February 03, 2025,

**Anthony J. Dattilio**

105 South Market Street  
Lisbon, Ohio 44432



  
Deputy Clerk

**Certified Article Number**

9414 7266 9904 2237 6219 23

**SENDER'S RECORD**



9590 9266 9904 2237 6219 26

**Summons**

Rule 4 1970, Ohio Rules of Civil Procedure

Case No.: 2025 CV 00052

ALLSTATE INSURANCE COMPANY  
AS SUBROGEE OF MARSHA CRAWL  
2775 SANDERS ROAD  
NORTHBROOK, IL 60062

SCOTT A WASHAM  
JUDGE

**Summons on Complaint**

Plaintiff(s)

VS.

NORFOLK SOUTHERN CORPORATION  
1200 PEACHTREE STREET NE  
ATLANTA, GA 30308

Defendant(s)

**FILED**

Columbiana County Common Pleas Court

**February 03, 2025**

**ANTHONY J. DATTILIO**  
**CLERK OF COURTS**

To the below named Defendant(s):  
NORFOLK SOUTHERN RAILWAY COMPANY  
C/O STATUTORY AGENT CORPORATION SERVICE COMPANY  
1160 DUBLIN ROAD, SUITE 400  
COLUMBUS, OH 43215

You are hereby summoned that a complaint (a copy of which is hereto attached and made a part hereof) has been filed against you in this Court by the Plaintiff(s) named herein.

You are required to serve upon the Plaintiff's Attorney, or upon the Plaintiff if no attorney of record, a copy of your answer to the complaint within 28 days after service of this summons upon you, exclusive of the day of service. Said answer must be filed with this Court within three (3) days after service on Plaintiff's Attorney.

The name and address of the Plaintiff's Attorney is as follows:

LESLIE E WARGO ESQ.  
1501 NORTH MARGINAL ROAD, SUITE 182  
CLEVELAND, OH 44114

(216) 403-3350 (W)

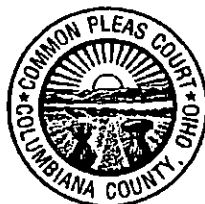
If you fail to appear and defend, judgment by default will be taken against you for the relief demanded in the complaint.

Witness, My signature and seal of said Court on this February 03, 2025,

**Certified Article Number**

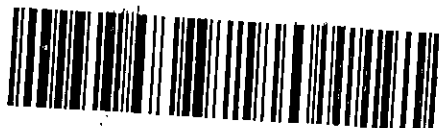
9414 7266 9904 2237 6219 16

**SENDER'S RECORD**



**Anthony J. Dattilio**  
105 South Market Street  
Lisbon, Ohio 44432

Deputy Clerk



9590 9266 9904 2237 6219 19

**U.S. Postal Service**  
**CERTIFIED MAIL® RECEIPT**  
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**USPS® ARTICLE NUMBER**

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**Return Receipt (Hardcopy)**

**Return Receipt (Electronic)**

**Certified Mail Restricted Delivery**

**Postage**

**Total Postage and Fees**

COLUMBIANA COUNTY  
COURT OF COMMON PLEAS

**FEB 04 2025**

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CLERK

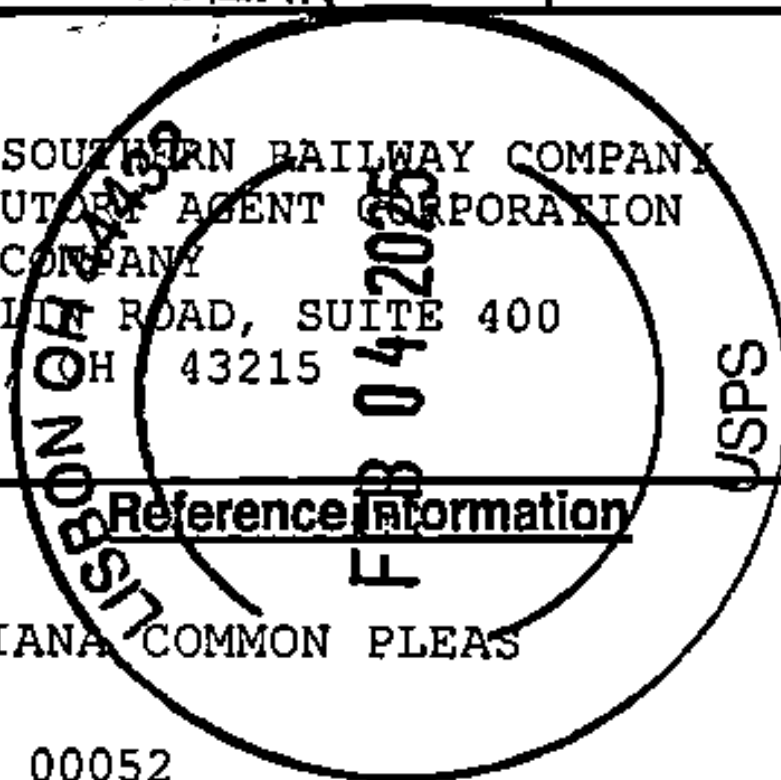
**Sent to:**

NORFOLK SOUTHERN RAILWAY COMPANY  
C/O STATUTORY AGENT CORPORATION  
SERVICE COMPANY  
1160 DUBLIN ROAD, SUITE 400  
COLUMBUS, OH 43215

**Reference Information**

COLUMBIANA COMMON PLEAS

2025 CV 00052



10.20

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**Return Receipt (Hardcopy)**

**Return Receipt (Electronic)**

**Certified Mail Restricted Delivery**

**Postage**

**Total Postage and Fees**

**Sent to:**

NORFOLK SOUTHERN CORPORATION  
1200 PEACHTREE STREET NE  
ATLANTA, GA 30308

**Reference Information**

COLUMBIANA COMMON PLEAS

2025 CV 00052

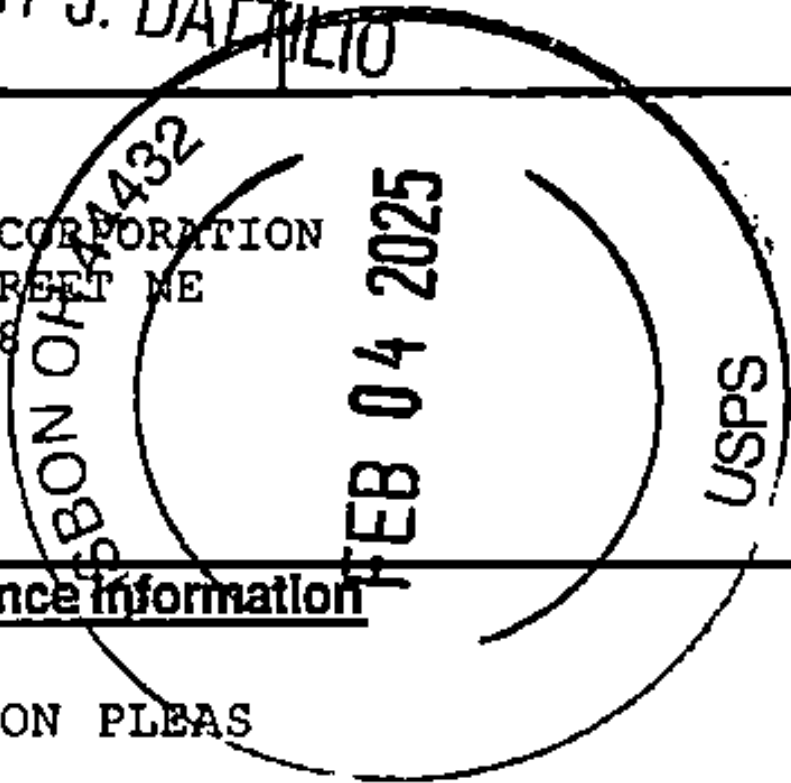
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COLUMBIANA COUNTY  
COURT OF COMMON PLEAS

FEB 04 2025

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CLERK



10.20

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